

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP, Development Services Director/ (954) 797-1101
Prepared by: Todd Vargo, Planner I

SUBJECT: Grant of Easement, Pelican Coast Plat, John D. Voigt/BNS International Inc., 405 SW 148 Avenue/ Generally located on the west side of SW 148 Avenue and east of the I-75 off ramp to I-595.

AFFECTED DISTRICT: District 4

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO ACCEPT A GRANT OF EASEMENT FOR THE PELICAN COAST PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES AND THE TOWN SEAL TO SAID EASEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: The Pelican Coast Plat was approved by Town Council on November 19, 1997 by Resolution R-97-397. Construction of a 6-foot wide sidewalk along SW 148 Avenue for the limits of the plat was a condition of plat approval. Due to several ownership changes, the easement for the sidewalk has not yet been granted. BNS International Inc., being the current owner of the Pelican Coast Plat, wishes to complete the final condition of plat approval by granting an easement to the Town of Davie for the 6-foot wide sidewalk.

PREVIOUS ACTIONS: None

CONCURRENCES: None

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to the Town Council for further consideration.

Attachment(s): Resolution, Grant of Easement, Sketch and Description of Easement, Warranty Deed, Opinion of Title, Tax Letter, Consent of Mortgagee, Future Land Use Map, Zoning and Aerial Map

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO ACCEPT A GRANT OF EASEMENT FOR THE PELICAN COAST PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES AND THE TOWN SEAL TO SAID EASEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Davie approved Resolution R-97-397 which approved a plat known as The Pelican Coast Plat on November 19, 1997; and

WHEREAS, a condition of approval of the Pelican Coast Plat was the construction of a 6-foot sidewalk along SW 148 Avenue for the limits of the plat; and

WHEREAS, BNS International, Inc., the current owner of the Pelican Coast Plat, wishes to grant an easement to the Town of Davie for the installation of a sidewalk along SW 148 Avenue.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council of the Town of Davie does hereby authorize the Mayor or Town Administrator to accept the Grant of Easement, a copy of which is attached hereto as Exhibit "A", delineating a portion of land, further described in Exhibit "B", for the installation of a sidewalk.

SECTION 2. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2003.

MAYOR/COUNCILMEMBER

Attest:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2003.

This instrument prepared by:

C. William Laystrom, Jr., Esq.
Doumar, Allsworth, et al.
1177 S.E. 3rd Avenue
Fort Lauderdale, Florida 33316

SIDEWALK EASEMENT

THIS EASEMENT, is made between BNS INTERNATIONAL, INC., a Florida corporation, (hereinafter referred to as "Grantor") and THE TOWN OF DAVIE, FLORIDA, a municipal corporation in Broward County, Florida, (hereinafter referred to as "Grantee"), whose post office address is 6591 S.W. 45th Street, Davie, Florida 33314. "Grantor" and "Grantee" are used for singular and/or plural, as the text requires.

The following recitals of fact are a material part of this instrument:

A. Grantor is a wholly-owned subsidiary of The Tower Group, Inc., a Florida corporation, and has obtained Grantee's approval for the site plan known as The Tower Group - Davie located at 1201 S.W. 148th Street, and is the owner of the tract of land which is the subject of that site plan as described on Exhibit "A" attached hereto and made a part hereof.

B. Grantee has required this Sidewalk Easement in connection with approval of Grantor's site plan and Grantor is willing to

grant this Sidewalk Easement to Grantee.

C. In consideration of Ten (\$10.00) Dollars and other good and valuable considerations, the Grantor, by this document, grants an easement over, under and across that part of the above-described property as more particularly described on Exhibit "B" attached hereto and made a part hereof (hereinafter referred to as the "Easement Premises").

1. Grant of Easement. The Grantor hereby grants to the Grantee the Easement Premises for purposes of a public easement to permit ingress and egress for pedestrian traffic and the maintenance of a sidewalk to the Town of Davie, who shall have the right to construct, alter and maintain and road and utilities across the easement premises, together with the free right of ingress and egress over such property insofar as such right of ingress and egress is necessary to the use or any other right granted herein. The term of this easement shall be perpetual. Grantee, its successors or assigns, is hereby authorized to maintain, repair, install and rebuild sidewalk facilities within the easement premises, and is hereby granted the right to enter upon the easement premises for such purposes.

2. Warranties of Title. Grantor warrants that it has good and indefeasible fee simple title to the Easement Premises.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and

seal this 24 day of January, 2003.

Grantor:

Signed, Sealed and Delivered
in the presence of:

BNS INTERNATIONAL, INC.

MICHAEL UHRE
Witness
[Signature]
Print Name

By: [Signature]
Print Name: GIL NEHAMKIN
Its: C.O.O.

[Signature]
Witness

KEVIN MONTEZ
Print Name

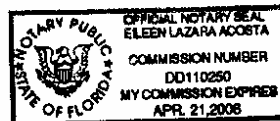
STATE OF Florida)
COUNTY OF Broward) SS

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by GIL J. NEHAMKIN, as C.O.O. of BNS INTERNATIONAL, INC. He/she is personally known to me or has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 24 day of January, 2003.

Eileen Lazara Acosta
NOTARY PUBLIC
Print Name: Eileen Lazara Acosta
My Commission Expires:

3



COUSINS SURVEYORS & ASSOCIATES, INC.



5365 S.W. 76TH AVENUE
DAVIE, FLORIDA 33314
CERTIFICATE OF AUTHORIZATION: LB # 6448
PHONE (954) 680-9885 FAX (954) 680-0213

PROJECT NUMBER: 3726-00

CLIENT:

THE TOWER GROUP, INC

LAND DESCRIPTION: SIDEWALK EASEMENT

A PORTION OF PARCEL "A", "PELICAN COAST PLAT", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 167, PAGE 24 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID PARCEL "A";

THENCE NORTH 00°21'21"WEST ALONG THE EAST LINE OF SAID PARCEL "A", A DISTANCE OF 42.00 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUE NORTH 00°21'21"WEST, A DISTANCE OF 20.94 FEET;

THENCE NORTH 32°17'59"WEST, A DISTANCE OF 15.02 FEET;

THENCE NORTH 00°05'41"EAST, A DISTANCE OF 8.30 FEET;

THENCE NORTH 33°25'36"EAST, A DISTANCE OF 15.51 FEET;

THENCE NORTH 00°21'21"WEST, A DISTANCE OF 42.77 FEET;

THENCE NORTH 89°38'39"EAST, A DISTANCE OF 11.26 FEET TO A POINT ON THE EAST LINE OF PARCEL "A";

THENCE ALONG THE EAST LINE OF SAID PARCEL "A", SOUTH 00°21'21"EAST, A DISTANCE OF 22.63 FEET;

THENCE CONTINUE ALONG THE EAST LINE OF SAID PARCEL "A", SOUTH 08°44'04"EAST, A DISTANCE OF 75.95 FEET TO THE POINT OF BEGINNING

ALL LYING AND BEING IN THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA.

NOTES:

1. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD.
3. DATA SHOWN HEREON DOES NOT CONSTITUTE A FIELD SURVEY AS SUCH.
4. BEARINGS SHOWN HEREON ARE BASED ON THE SOUTH LINE OF PARCEL "A", "PELICAN COAST PLAT" (P.B. 167, PG. 24, B.C.R.). SAID LINE BEARS S 89°51'44"W.

I HEREBY CERTIFY THAT THE ATTACHED "LAND DESCRIPTION AND SKETCH" IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION IN OCTOBER, 2002. I FURTHER CERTIFY THAT THIS "LAND DESCRIPTION AND SKETCH" MEETS THE MINIMUM TECHNICAL STANDARDS FOR SURVEYING IN THE STATE OF FLORIDA ACCORDING TO CHAPTER 616.17 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES. SUBJECT TO THE QUALIFICATIONS NOTED HEREON.

FOR THE FIRM, BY:

Richard E. Cousins
RICHARD E. COUSINS
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA REGISTRATION NO. 4188

REVISIONS	DATE	FB/PG	DWN	CKD
LAND DESCRIPTION & SKETCH	10/22/02	N/A	REC	1/1

SIDEWALK
EASEMENT

PROPERTY ADDRESS:
405 S.W. 148TH AVENUE

SCALE: N/A

SHEET 1 OF 2

EXHIBIT "B"

COUSINS SURVEYORS & ASSOCIATES, INC.



5365 S.W. 76TH AVENUE
DAVIE, FLORIDA 33314
CERTIFICATE OF AUTHORIZATION: LB # 6448
PHONE (954) 680-9885 FAX (954) 680-0213

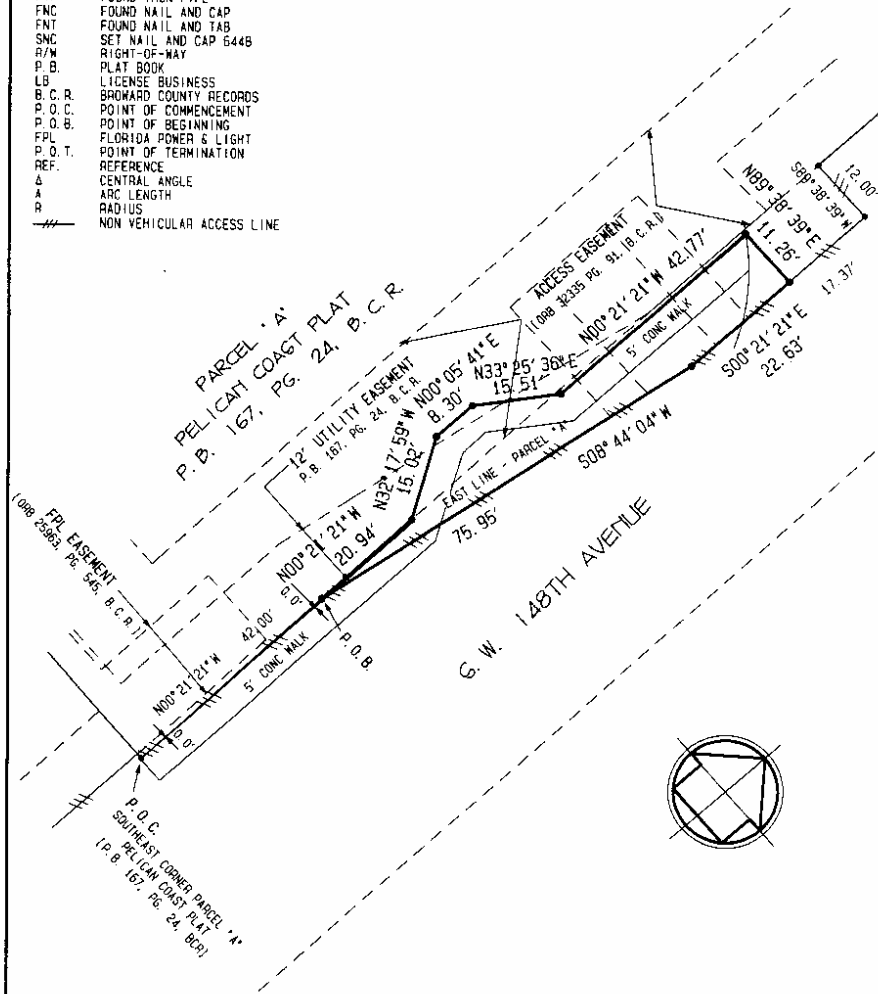
PROJECT NUMBER : 3726-00

CLIENT :

THE TOWER GROUP, INC

LEGEND:

CBS CONCRETE BLOCK STRUCTURE
CKD CHECKED BY
CONC CONCRETE
DWN DRAWN BY
FB/PG FIELD BOOK AND PAGE
SIR SET 5/8" IRON ROD AND CAP 6448
FIR FOUND IRON ROD
FIP FOUND IRON PIPE
FNC FOUND NAIL AND CAP
FNT FOUND NAIL AND TAB
SNC SET NAIL AND CAP 6448
R/W RIGHT-OF-WAY
P.B. PLAT BOOK
LB LICENSE BUSINESS
B.C.R. BROWARD COUNTY RECORDS
P.O.C. POINT OF COMMENCEMENT
P.O.B. POINT OF BEGINNING
FPL FLORIDA POWER & LIGHT
P.O.T. POINT OF TERMINATION
REF. REFERENCE
Δ CENTRAL ANGLE
A ARC LENGTH
R RADIUS
--- NON VEHICULAR ACCESS LINE



REVISIONS	DATE	FB/PG	DWN	CKD
LAND DESCRIPTION & SKETCH	10/22/02	N/A	REC	

SIDEWALK
EASEMENT

PROPERTY ADDRESS :
405 S.W. 148TH AVENUE

SCALE: 1" = 20'

SHEET 2 OF 2

3 -

This Instrument Prepared by:
Robert Cheng, Esq.
Shutts & Bowen LLP
1500 Miami Center
201 South Biscayne Blvd.
Miami, FL 33131

-----The Space Above This Line For Recording Office Use Only-----

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED is made this 26 day of April, 2002, by THE TOWER GROUP, INC., a Florida corporation ("Grantor"), whose address is 10145 N.W. 19th Street, Miami, Florida 33172, to BNS INTERNATIONAL, INC., a Florida corporation ("Grantee"), whose address is 10145 N.W. 19th Street, Miami, Florida 33172.

Grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration paid to Grantor by Grantee, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold and conveyed, and does hereby grant, bargain, sell and convey, to Grantee and Grantee's successors and assigns forever, the following described land, situate, lying and being in Broward County, Florida (the "Property"):

Parcel "A" of PELICAN COAST PLAT, according to the plat thereof as recorded in Plat Book 167, Page 24, of the Public Records of Broward County, Florida.

Parcel ID No.: 0009-14-0010

TOGETHER WITH all easements, tenements, hereditaments and appurtenances belonging to the Property; and

TOGETHER WITH all buildings and other improvements now or hereafter located on the Property.

TO HAVE AND TO HOLD the same in fee simple forever.

This conveyance is made subject to:

- (a) Taxes for the year 2002 and subsequent years;
- (b) Applicable zoning ordinances and governmental regulations;

504455-1

(2)

EXHIBIT "A"

(c) Conditions, restrictions, covenants, limitations, and easements of record; however, that this instrument shall not operate to reimpose any of same; and

(e) Parties in possession.

GRANTOR covenants that at the time of delivery of this deed, except as described above, the Property is free of any encumbrance made by Grantor, and Grantor specially warrants the title to the Property, and will defend it against the lawful claims and demands of all persons claiming by, through or under Grantor, but against none other.

Grantor has duly executed this instrument as of April 26th, 2002.

Signed, sealed and delivered
in the presence of:

THE TOWER GROUP, INC., a
Florida corporation

By: [Signature]
Name: Anthony Burke
Its: President

[Signature]
Print Name: Robert Cheny

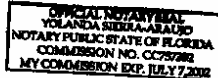
[Signature]
Print Name: YOLANDA S. ARAUD

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 26 day of April, 2002, by Anthony Burke, as President of The Tower Group, Inc., a Florida corporation, on behalf of the Corporation. He/She is () personally known to me or () has produced His own license as identification.

(NOTARY SEAL)

[Signature]
Notary Public, State of Florida
Print Name: _____
Commission No.: _____
My Commission Expires: _____



OPINION OF TITLE

TO: Town of Davie Development Services Department

With the understanding that this Opinion of Title is furnished to Town of Davie, Development Services Department, Florida, as inducement for acceptance of a Sidewalk Easement covering the real property hereinafter described, it is hereby certified that I have examined a complete Abstract of Title covering the period from the beginning of time to the 8th day of July, 2003 inclusive of the following described real property:

See Attached Exhibit "A"

Basing my opinion of said Abstract, I am of the opinion that on the last mentioned date the fee simple title in the above described property was vested in:

BNS International, Inc., a Florida corporation

Subject to the following encumbrance, liens, and other exceptions:

GENERAL EXCEPTIONS

Therefore, it is my opinion that the following party(ies) must join in the agreement in order to make the agreement a valid and binding covenant on the lands described herein.

NAME	INTEREST	SPECIAL EXCEPTED
ABOVE ONLY	100%	

I, the undersigned, further certify that I am an Attorney-at-Law, duly admitted to practice in the State of Florida, and a member of

good standing of the Florida Bar.

Respectfully submitted this 8th day of July, 2003.

John D. Voigt
JOHN D. VOIGT, ESQUIRE

The foregoing instrument was sworn to and subscribed before me
this 8th day of July, 2003, by John D. Voigt,
who is personally known to me or who has produced N/A
as identification.

Kathy Robertson
Notary Public, State of Florida
Print Name: Kathy Robertson

My commission expires:

KATHY ROBERTSON
NOTARY PUBLIC - STATE OF FLORIDA
COMMISSION # 00124318
EXPIRES 07/19/2006
BONDED THRU 1-888-NOTARY1

CONSENT OF MORTGAGEE

Without assuming any liability and without warranty of any kind, and without waiving any rights, Northern Trust Bank of Florida, N.A. (the "Mortgagee") being the holder of that certain Mortgage dated the 26th day of April, 2002, and recorded the 29th day of April, 2002, in Official Records Book 33065, at Page 721, that certain Absolute Assignment of Leases and Rents dated April 26, 2002 and recorded April 29, 2002 in Official Records Book 33065, at Page 743 and that certain UCC-1 Financing Statement recorded in Official Records Book 33065, at Page 757, (collectively, the "Mortgage"), all of the Public Records of Broward County, Florida hereby consents to the attached Easement Agreement whereby B&S International, Inc. is granting a sidewalk easement to the Town of Davie for the construction and maintenance of a public sidewalk. Nothing in this Consent shall be interpreted as a subordination of Mortgagee's lien rights to the lien rights of any other entity or the Town of Davie.

NORTHERN TRUST BANK OF FLORIDA, N.A.

By: Alfred P. Hertzog, Jr.
Name: ALFRED P. HERTZOG, JR.
Title: VICE-PRESIDENT

WITNESSES:

[Signature]
Print Name: Yanessa Sanchez

[Signature]
Print Name: N. R. Dominguez

State of Florida
County of _____

On the 12th day of August, 2003, Alfred P. Hertzog, Jr., whose title is Vice President, and who is authorized to sign the foregoing Consent of Mortgagee for and on behalf of Northern Trust Bank of Florida, N.A., personally appeared before me and

executed this instrument and is:

✓ is personally known to me or
 produced as identification;

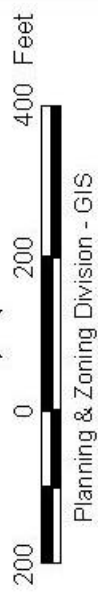
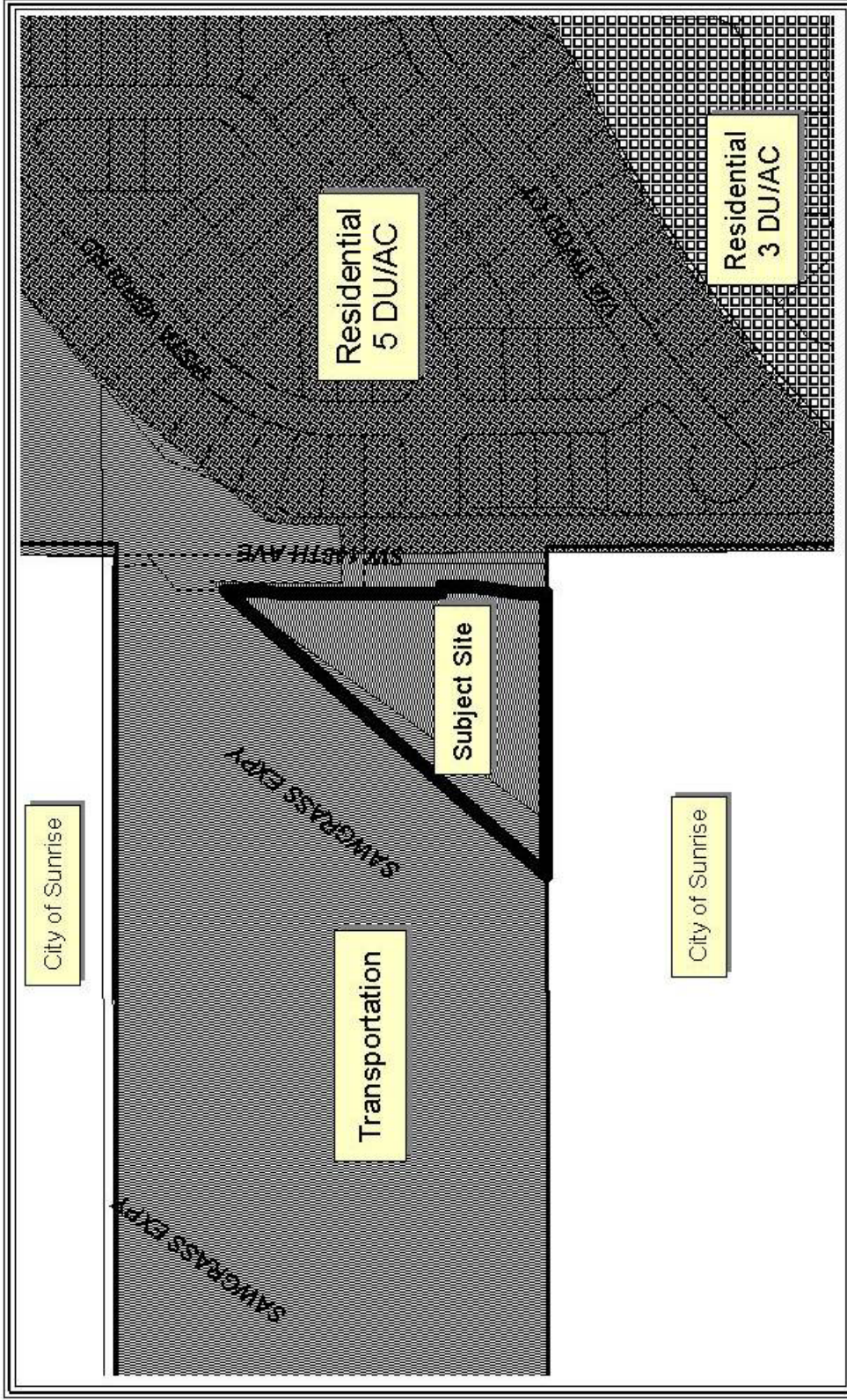
and who

 did take an oath or
✓ did not take an oath.



Notary Public
Print Name: _____





GRANT OF EASEMENT Future Land Use Map

Prepared By: TAV
Date Prepared: 7/10/03



Date Flown:
12/31/00



200 0 200 400 Feet



Planning & Zoning Division - GIS



GRANT OF EASEMENT Zoning and Aerial Map

Prepared By: TAV
Date Prepared: 7/10/03